Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of	)	
	)	
Implementation of Section 621(a)(1) of the Cable	)	
Communications Policy Act of 1984 as amended	)	MB Docket No. 05-311
by the Cable Television Consumer Protection and	)	
Competition Act of 1992	)	
	)	

COMMENTS OF THE BRONX COMMUNITY CABLE PROGRAMMING CORPORATION d/b/a BRONXNET IN RESPONSE TO THE FURTHER NOTICE OF PROPOSED RULEMAKING

THE BRONX COMMUNITY CABLE PROGRAMMING CORPORATION submits these comments in response to the Further Notice of Proposal Rulemaking, released March 5, 2007, in the above-captioned rulemaking ("Further Notice").

1. The City of New York is the local franchising authority for the Borough of the Bronx, a diverse community of approximately 1.4 million people. BronxNet is the not-for-profit 501c3 Community Media station serving the people of the Bronx. The station provides local television by the people of the Bronx and for the people of the Bronx. BronxNet is a public access station programming four channels and providing media production training for the public, as well as middle school, high school, and college students. There are currently three franchised cable operators within the City of New York. Those cable operators, along with the

current expiration dates of their franchises are: Cablevision, October 2008; Time Warner, October 2008; RCN, October 2008.

2. BronxNet supports and adopts the comments of the Alliance for Community Media, the Alliance for Communications Democracy, the National Association of Telecommunications Officers and Advisors, the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors, filed in response to the Further Notice.

3. We oppose the Further Notice's tentative conclusion (at ¶ 140) that the findings made in the FCC's March 5, 2007, Order in this proceeding should apply to incumbent cable operators, whether at the time of renewal of those operators' current franchises, or thereafter. This proceeding is based on Section 621(a)(1) of the Communications Act, 47 U.S.C. § 541(a)(1), and the rulings adopted in the Order are specifically, and entirely, directed at "facilitat[ing] and expedit[ing] entry of new cable competitors into the market for the delivery of video programming, and accelerat[ing] broadband deployment" (Order at ¶ 1).

4. We disagree with the rulings in the Order, both on the grounds that the FCC lacks the legal authority to adopt them and on the grounds that those rulings are unnecessary to promote competition, violate the Cable Act's goal of ensuring that a cable system is "responsive to the needs and interests of the local community," 47 U.S.C. § 521(2), and are in conflict with several other provisions of the Cable Act. But even assuming, for the sake of argument, that the rulings in the Order are valid, they cannot, and should not, be applied to incumbent cable

operators. By its terms, the "unreasonable refusal" provisions of Section 621(a)(1) apply to "additional competitive franchise[s]," not to incumbent cable operators. Those operators are by definition already in the market, and their future franchise terms and conditions are governed by the franchise renewal provisions of Section 626 (47 U.S.C. § 546), and not Section 621(a)(1).

5. We strongly endorse the Further Notice's tentative conclusion (at para. 142) that Section 632(d)(2) (47 U.S.C. § 552(d)(2)) bars the FCC from "prempt[ing] state or local customer service laws that exceed the Commission's standards," and from "preventing LFAs and cable operators from agreeing to more stringent [customer service] standards" than the FCC's.

Respectfully submitted,

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